



**BILLING CODE 3410-34-P**

## **DEPARTMENT OF AGRICULTURE**

### **Animal and Plant Health Inspection Service**

**[Docket No. APHIS-2018-0068]**

#### **Importation of *Dianthus* spp. From Kenya**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** We are notifying the public that we are updating the U.S. Department of Agriculture Plants for Planting Manual to allow the importation of *Dianthus* spp. cuttings from Kenya without postentry quarantine, subject to certain conditions. We are taking this action in response to a request from this country and after determining that the cuttings can be imported, under certain conditions, without resulting in the introduction into, or the dissemination within, the United States of a plant pest.

**DATES:** The changes to the entry conditions will be applicable on [Insert date of publication in the Federal Register.]

**FOR FURTHER INFORMATION CONTACT:** Ms. Lydia E. Colón, Senior Regulatory Policy Specialist, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1236; (301) 851-2302.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Under the regulations in “Subpart H—Plants for Planting” (7 CFR 319.37-1 through 319.37-23, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) prohibits or restricts the importation of plants for planting (including living plants, plant parts, seeds, and plant cuttings) to prevent the introduction of quarantine pests into the United States. *Quarantine pest* is defined in § 319.37-2

as a plant pest or noxious weed that is of potential economic importance to the United States and not yet present in the United States, or present but not widely distributed and being officially controlled. In accordance with § 319.37-20, APHIS may impose quarantines and other restrictions on the importation of specific types of plants for planting. These restrictions are listed in the USDA Plants for Planting Manual.<sup>1</sup>

In a final rule<sup>2</sup> published in the *Federal Register* on March 19, 2018 (83 FR 11845-11867, Docket No. APHIS-2008-0011), and effective on April 18, 2018, we amended the regulations so that restrictions on the importation of certain types of plants for planting would be included in the USDA Plants for Planting Manual instead of the regulations, meaning that changes to specific restrictions on plants for planting are no longer made through rulemaking. Under § 319.37-20, if APHIS determines it is necessary to add, change, or remove restrictions on the importation of a specific type of plant for planting, we will publish in the *Federal Register* a notice that announces the proposed change and invites public comment.

On May 9, 2019, we published in the *Federal Register* (84 FR 20323-20324, Docket No. APHIS-2018-0068) a notice<sup>3</sup> in which we proposed to make changes to the import requirements in the USDA Plants for Planting Manual for imports of *Dianthus* spp. (carnation) cuttings from Kenya by allowing the cuttings to be imported into the United States without postentry quarantine, subject to certain conditions outlined in a commodity import evaluation document (CIED).

We solicited comments on the notice for 60 days ending on July 8, 2019. We received six unique comments by that date. They were from two horticultural companies, two national

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<sup>1</sup>[https://www.aphis.usda.gov/import\\_export/plants/manuals/ports/downloads/plants\\_for\\_planting.pdf](https://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/plants_for_planting.pdf).

<sup>2</sup> The proposed and final rules, supporting documents, and comments can be viewed at <https://www.regulations.gov>. Enter APHIS-2008-0011 in the Search field.

<sup>3</sup> To view the notice, supporting documents, and the comments we received, go to <http://www.regulations.gov>, and enter APHIS-2018-0068 in the Search field.

trade organizations who issued a joint comment, two State departments of agriculture, and a growers' and landscape association.

The issues raised by the commenters are addressed below.

Two commenters asked that the risk management measures include trapping for lepidopteran pests using pheromone lures. One of these commenters expressed particular concern about the pests *Helicoverpa armigera*, *Agrotis segetum*, and *Spodoptera littoralis*.

As stated in the CIED, APHIS will require that the *Dianthus* spp. cuttings are grown in a pest-exclusionary greenhouse that includes safeguards against pests such as insect-proof screening over openings and self-closing double or airlock-type doors. The risk management measures also require that the production sites have monthly inspections for lepidopteran pests for at least four consecutive months immediately prior to export. We are confident that these measures will sufficiently protect the cuttings against lepidopteran pests without the need for pheromone lures, which can attract pests over long distances and have the potential to inadvertently attract more pests to the production site.

One of these commenters also requested that we include two arthropod pests, *Chrysodeixis chalcites* and *Lobesia botrana*, both moths, in our considerations.

Both of these pests are addressed in the CIED. *Chrysodeixis chalcites* is among the pests specifically named in the risk mitigation measure of monthly visual crop inspections for at least four consecutive months immediately prior to export. *Lobesia botrana* is listed in a table of additional *Dianthus* spp. pests present in Kenya, but with a note that *Dianthus* spp. is an exempted host from domestic quarantine regulations within the United States for the movement of *Lobesia botrana* host material as it has been determined not to pose a risk of spreading *Lobesia botrana*. For the sake of consistency with domestic regulations, we did not propose mitigations for *Lobesia botrana* for the importation of *Dianthus* spp. plants for planting from Kenya without postentry quarantine.

The commenter also requested that the risk management measures include inspecting the soil around the plants for *Agrotis segetum*, a moth, and inspecting the stems for boreholes as well as cutting open a percentage of stems to check for *Epichoristodes acerbella*, a moth.

APHIS will emphasize in the operational workplan that visual inspections should include an examination of the soil and an inspection of stems for boreholes. However, because the plant articles in question are cuttings, and therefore not likely to have stems sufficient to support borers, we do not believe stipulating the cutting open of stems to be necessary.

One commenter expressed concern about the importation of *Dianthus* spp. from Kenya introducing strains of *Ralstonia solanacearum*.

*Dianthus* spp. is not known to be a host of *Ralstonia solanacearum*.

One commenter asked about APHIS' objective in lifting the postentry quarantine.

APHIS has the authority to impose restrictions on the importation of specific types of plants for planting when such restrictions are necessary to effectively mitigate the risk of introducing quarantine pests into the United States. After receiving a request from Kenya to allow for the importation of *Dianthus* spp. cuttings from Kenya without postentry quarantine, APHIS determined that the systems approach outlined in the CIED would successfully mitigate the associated plant pest risk, therefore eliminating the need for the postentry quarantine restriction.

The commenter also expressed general concern that the risk management procedures would not guarantee that *Dianthus* spp. cuttings from Kenya would arrive to the United States free from pests and would not pose a risk to United States agriculture.

After completing a comprehensive evaluation, APHIS believes that the pest risk will be sufficiently mitigated by the risk management measures outlined in the CIED. These measures are consistent with the measures regarding *Dianthus* spp. cutting exports to the United States taken by the national plant protection organizations (NPPOs) of Great Britain and the

Netherlands, the two countries that are currently exempted from the postentry quarantine requirement for *Dianthus* spp. if certain conditions are met.

The commenter asked about the prevalence of viruses in Kenya compared to their prevalence in the United States and the extent to which this posed an agricultural risk.

The CIED listed two viruses among the pests of concern for *Dianthus* spp., carnation etched ring virus (CERV) and carnation necrotic fleck virus. CERV is found worldwide, including in the United States, but has not been reported to occur in Kenya. Carnation necrotic fleck virus is present in Great Britain and the Netherlands with limited distribution in the United States (California), but is not known to occur in Kenya. The systems approach we outlined provides mitigation strategies to prevent these pests from entering the United States should they appear in Kenya in the future.

The commenter also asked who benefits from this decision, what the impact on jobs would be, whether a cost-benefit analysis had been completed, and what need current domestic production is not meeting in the market that makes this change necessary.

As cuttings of *Dianthus* spp. are already imported into the United States from Kenya and this change would not impact the current volume imported, this change should not have any economic impact or affect any jobs in the United States. Moreover, APHIS' authority to place restrictions on imports of cuttings of *Dianthus* spp. from Kenya is based on the pest risks associated with such imports. The Agency does not have statutory authority to make decisions regarding restrictions placed on the importation of plants or plant products on the basis of economic or competitive considerations.

The commenter asked whether other agricultural crops were considered in the CIED.

The request from Kenya focused specifically on *Dianthus* spp. cuttings, and therefore no other imported agricultural crops were assessed. APHIS analyzed whether this change would increase the potential pest risk to domestic agricultural crops and found that a systems approach would be sufficient to mitigate any potential risk to United States agriculture.

Finally, the commenter expressed concern about whether the NPPO of Kenya is qualified to abide by the systems approach, mentioning an instance of *Ralstonia solanacearum* found in plants imported from Kenya that caused damage to United States crops.

The NPPO of Kenya is a signatory to the World Trade Organization's Agreement on Sanitary and Phytosanitary Measures. As such, it has agreed to respect the phytosanitary measures the United States imposes on the importation of plants and plant products from Kenya. To ensure that these phytosanitary measures are met, APHIS will create a detailed operational workplan with Kenya. Additionally, all *Dianthus* spp. cuttings from Kenya will be inspected at plant inspection stations in the United States for quarantine pests. If consignments are determined to be infested, they will be subject to appropriate remedial measures.

Therefore, based on the reasons outlined in the initial notice, the CIED accompanying the initial notice, and this second notice, we are updating the USDA Plants for Planting Manual to allow the importation of *Dianthus* spp. cuttings from Kenya without postentry quarantine, provided that the NPPO of Kenya enters into an operational workplan with APHIS and:

- The cuttings are grown in a greenhouse that is registered with the NPPO of Kenya and that operates under an agreement with the NPPO.
- The NPPO maintains a list of registered growers and provides them to APHIS at least annually.
- The production site incorporates safeguards to prevent the entry of arthropod pests including, but not necessarily limited to, insect proof screening over openings and self-closing double or airlock-type doors.
- Blacklight traps are maintained for at least 1 year following construction of the production site, registration of the site, replacement of the covering of the production site, or discovery and repair to any rips or tears in the covering of the production site.
- Any rips or tears are repaired immediately.

- In the event of detection of quarantine pests in a production site, the site will not be allowed to export until appropriate control measures approved by the NPPO are taken and their effectiveness verified by APHIS.
- Plants destined for export to the United States are produced in a production site devoted solely to production of such plants.
- Parental stock from which the plants intended for importation derive are inspected and found free of the fungus *Phialophora cinerescens*, and indexed and found free of *Carnation etched ring virus* and *Carnation necrotic fleck virus*.
- At least once monthly for the 4 months prior to the cuttings' export to the United States, the production site is visually inspected for *Spodoptera littoralis* (cotton leaf worm), *Helicoverpa armigera* (Old World bollworm), *Agrotis segetum* (turnip moth), *Epichoristodes acerbella* (carnation tortrix), *Aspidiotus nerii* (a scale), and *Chrysodeixis chalcites* (a moth), as well as *Phialophora cinerescens*, *Carnation etched ring virus*, and *Carnation necrotic fleck virus*.
- The production site maintains records regarding production, indexing, inspection, and pest management, and inspectors from the NPPO and APHIS have access to both the production site and these records.
- Cuttings are accompanied by a phytosanitary certificate with an additional declaration that the plants were produced in a production site registered with the NPPO of Kenya, and that the plants were grown under conditions specified by APHIS to prevent infestation with *Phialophora cinerescens*, *Carnation etched ring virus*, *Carnation necrotic fleck virus*, *Agrotis segetum*, *Epichoristodes acerbella*, *Helicoverpa armigera*, *Spodoptera littoralis*, and *Aspidiotus nerii*.
- Cuttings are limited to commercial consignments only.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the burden requirements included in this notice are covered under the Office of Management and Budget (OMB) control number 0579-0049, which is updated on a quarterly basis.

#### E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this notice, please contact Mr. Joseph Moxey, APHIS' Information Collection Coordinator, at (301) 851-2483.

#### Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C.801 *et seq.*), the Office of Information and Regulatory Affairs designated this action as not a major rule, as defined by 5 U.S.C. 804(2).

Authority: 7 U.S.C. 1633, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 31st day of March 2021.

Mark Davidson,

Acting Administrator, Animal and Plant Health Inspection Service.